

110TH CONGRESS
1ST SESSION

H. R. 4142

To amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2007

Mr. GARRETT of New Jersey introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Medication
5 Access for Veterans Act”.

1 **SEC. 2. ELIGIBILITY OF MEDICARE-ELIGIBLE VETERANS**
2 **FOR OUT-PATIENT MEDICATION BENEFIT.**

3 (a) RESTATEMENT OF CURRENT LAW ON DRUGS
4 AND MEDICATIONS AND PROVISION OF OUT-PATIENT
5 MEDICATION BENEFIT.—Chapter 17 of title 38, United
6 States Code, is amended by inserting after section 1710B
7 the following new section:

8 **“§ 1710C. Drugs and medications; vaccines**

9 “(a)(1) The Secretary shall furnish to each veteran
10 who is receiving additional compensation or allowance
11 under chapter 11 of this title, or increased pension as a
12 veteran of a period of war, by reason of being permanently
13 housebound or in need of regular aid and attendance, such
14 drugs and medicines (subject to subsection (d)) as may
15 be ordered on prescription of a duly licensed physician as
16 specific therapy in the treatment of any illness or injury
17 suffered by such veteran.

18 “(2) The Secretary shall continue to furnish such
19 drugs and medicines ordered under paragraph (1) to any
20 such veteran in need of regular aid and attendance whose
21 pension payments have been discontinued solely because
22 such veteran’s annual income is greater than the applica-
23 ble maximum annual income limitation, but only so long
24 as such veteran’s annual income does not exceed such
25 maximum annual income limitation by more than \$1,000.

1 “(b)(1) Any medicare-eligible veteran may elect to be
2 furnished by the Secretary, on an out-patient basis, such
3 drugs and medicines (subject to subsection (d)) as may
4 be ordered on prescription of a duly licensed physician as
5 specific therapy in the treatment of any illness or injury
6 suffered by such veteran.

7 “(2) In this subsection, the term ‘medicare-eligible
8 veteran’ means any veteran who—

9 “(A) is entitled to or enrolled in hospital insurance
10 benefits under part A of title XVIII of the Social Security
11 Act (42 U.S.C. 1395 et seq.); or

12 “(B) is enrolled in the supplementary medical insur-
13 ance program under part B of such title (42 U.S.C. 1395j
14 et seq.).

15 “(3) The Secretary shall furnish to any veteran who
16 makes an election under paragraph (1), on an out-patient
17 basis, such drugs and medicines as may be ordered on pre-
18 scription of a duly licensed physician as specific therapy
19 in the treatment of any illness or injury suffered by such
20 veteran.

21 “(4)(A) Notwithstanding any other provision of law
22 and except as provided in subparagraph (B), a veteran
23 who makes an election under paragraph (1) shall not be
24 eligible for care and services under this chapter during the
25 year covered by the election.

1 “(B) Subparagraph (A) shall not apply with re-
2 spect to any veteran who has a compensable service-
3 connected disability.

4 “(5) The furnishing of drugs and medicines under
5 this subsection shall be subject to the provisions of section
6 1722A(b) of this title.

7 “(6)(A) An election under paragraph (1) shall be for
8 a calendar year, and shall be irrevocable for the year cov-
9 ered by such election. An election may be renewed.

10 “(B) The Secretary shall prescribe the form,
11 manner, and timing of an election.

12 “(7) Before permitting a veteran to make an election
13 under paragraph (1), the Secretary shall provide the vet-
14 eran such educational materials and other information on
15 the furnishing and receipt of drugs and medicines under
16 this subsection as the Secretary considers appropriate to
17 inform the veteran of the benefits and costs of being fur-
18 nished drugs and medicines under this subsection, includ-
19 ing materials and information on the consequences of
20 making an election under paragraph (1) and on the fees,
21 copayments, or other amounts required under section
22 1722A(b) of this title for drugs and medicines furnished
23 under this subsection.

24 “(c)(1) In order to assist the Secretary of Health and
25 Human Services in carrying out national immunization

1 programs under other provisions of law, the Secretary may
2 authorize the administration of immunizations to eligible
3 veterans who voluntarily request such immunizations in
4 connection with the provision of care for a disability under
5 this chapter in any Department health care facility.

6 “(2) Any immunization under paragraph (1) shall be
7 made using vaccine furnished by the Secretary of Health
8 and Human Services at no cost to the Department. For
9 such purpose, notwithstanding any other provision of law,
10 the Secretary of Health and Human Services may provide
11 such vaccine to the Department at no cost.

12 “(3) Section 7316 of this title shall apply to claims
13 alleging negligence or malpractice on the part of Depart-
14 ment personnel granted immunity under such section.

15 “(d) Drugs and medicines may be furnished under
16 subsections (a) and (b) only if included on the National
17 Prescription Drug Formulary of the Department, except
18 that the Secretary may authorize the furnishing of a drug
19 or medicine not included on that formulary under such
20 circumstances as the Secretary determines warranted.”.

21 (b) COPAYMENT REQUIREMENTS.—

22 (1) IN GENERAL.—Section 1722A of such title
23 is amended—

1 (A) in subsection (a)(1), by inserting
2 “(other than a veteran covered by subsection
3 (b))” after “require a veteran”;

4 (B) by redesignating subsections (b) and
5 (c) as subsections (c) and (d), respectively; and

6 (C) by inserting after subsection (a) the
7 following new subsection (b):

8 “(b)(1) In the case of a veteran who is furnished
9 medications on an out-patient basis under section
10 1710C(b) of this title, the Secretary shall require the vet-
11 eran to pay, at the election of the Secretary, one or more
12 of the following:

13 “(A) An annual enrollment fee in an amount
14 determined appropriate by the Secretary.

15 “(B) A copayment for each 30-day supply of
16 such medications in an amount determined appro-
17 priate by the Secretary.

18 “(C) An amount equal to the cost to the Sec-
19 retary of such medications, as determined by the
20 Secretary.

21 “(2)(A) In determining the amounts to be paid by
22 a veteran under paragraph (1), and the basis of payment
23 under one or more subparagraphs of that paragraph, the
24 Secretary shall ensure that the total amount paid by vet-
25 erans for medications under that paragraph in a year is

1 not less than the costs of the Department in furnishing
2 medications to veterans under section 1710C(b) of this
3 title during that year, including the cost of purchasing and
4 furnishing medications, and other costs of administering
5 that section.

6 “(B) The Secretary shall take appropriate ac-
7 tions to ensure, to the maximum extent practicable,
8 that amounts paid by veterans under paragraph (1)
9 in a year are equal to the costs of the Department
10 referred to in subparagraph (A) in that year.

11 “(3) In determining amounts under paragraph (1),
12 the Secretary may take into account the following:

13 “(A) Whether or not the medications furnished
14 are generic medications or brand name medications.

15 “(B) Whether or not the medications are fur-
16 nished by mail.

17 “(C) Any other matters the Secretary considers
18 appropriate.

19 “(4) The Secretary may from time to time adjust any
20 amount determined by the Secretary under paragraph (1),
21 as previously adjusted under this paragraph, in order to
22 meet the purpose specified in paragraph (2).”.

23 (2) DEPOSIT OF COLLECTIONS IN MEDICAL
24 CARE COLLECTIONS FUND.—Paragraph (4) of sec-

1 tion 1729A(b) of such title is amended to read as
2 follows:

3 “(4) Subsection (a) or (b) of section 1722A of
4 this title.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) ENROLLMENT INELIGIBILITY.—Section
7 1707 of such title is amended by adding at the end
8 the following new subsection:

9 “(c) Notwithstanding any other provision of law, a
10 veteran who makes an election authorized by section
11 1710C(b) of this title (other than a veteran covered by
12 paragraph (4)(B) of that section) shall not, for the period
13 of such election, be eligible for care and services under
14 this chapter, except as provided in that section.”.

15 (2) REPEAL OF RESTATED PROVISIONS.—Sec-
16 tion 1712 of such title is amended by striking sub-
17 sections (d) and (e).

18 (d) CLERICAL AMENDMENTS.—

19 (1) SECTION HEADING.—The heading for sec-
20 tion 1712 of such title is amended to read as fol-
21 lows:

22 “§ 1712. Dental care”.

23 (2) TABLE OF SECTIONS.—The table of sections
24 at the beginning of chapter 17 of such title is
25 amended—

1 (A) by inserting after the item relating to
2 section 1710B the following new item:

“1710C. Drugs and medications; vaccines.”; and

3 (B) by striking the item relating to section
4 1712 and inserting the following new item:

“1712. Dental care.”.

